

FILED

FEB 14 2012

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA
BY Yuh DEPUTY

WILLIAM A. BENARD,

Plaintiff,

vs.

MICHAEL J. ASTRUE, Commissioner
of Social Security,

Defendant.

No. CIV-10-1050-W

ORDER

On January 23, 2012, United States Magistrate Judge Valerie K. Couch issued a Report and Recommendation in this matter and recommended that the decision of Michael J. Astrue, Commissioner of the Social Security Administration ("Commissioner"), denying the Application for Disability Insurance Benefits and the Application for Supplemental Security Income filed by plaintiff William A. Benard be reversed. Magistrate Judge Couch further recommended that this matter be remanded to the Commissioner for additional administrative proceedings. The parties were advised of their right to object to Magistrate Judge Couch's Report and Recommendation, but neither party has objected within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Couch's finding that remand of this matter is warranted because the Administrative Law Judge ("ALJ") at step two of the required five-step sequential evaluation process, e.g., 20 C.F.R. §§ 404.1520, 416.920, failed to consider all of Benard's medically determinable physical impairments, and, in particular, failed to fully and adequately consider and address Benard's left knee impairments. The Court further concurs with Magistrate Judge Couch's

suggestion of remand due to the ALJ's failure to determine the effect, if any, Benard's severe mental impairments would have on Benard's ability to work.

Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 19] issued on January 23, 2012;

(2) REVERSES the Commissioner's decision denying Benard's Applications for Disability Insurance Benefits and Supplemental Security Income;

(3) REMANDS this matter to the Commissioner pursuant to sentence four of Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for further administrative proceedings in accordance with this Order and consistent with Magistrate Judge Couch's Report and Recommendation; and

(4) ORDERS that judgment pursuant to this Order shall issue forthwith.

ENTERED this 14th day of February, 2012.


LEE R. WEST
UNITED STATES DISTRICT JUDGE